

United States District Court
Eastern District of New York

SPIEL ASSOCIATES, INC.

SUMMONS IN A CIVIL CASE

v.

GATEWAY BOOKBINDING SYSTEMS, LTD.

CASE NUMBER:

CV-03 4696

TO: (Name and address of defendant)

GATEWAY BOOKBINDING SYSTEMS, LTD.
276 Cavalier Street
Pembina, North Dakota 58271

BLOCK, J.

MANN, M.

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Law Offices of Todd Wengrovsky, PLLC.

285 Southfield Road, Box 585
Calverton, New York 11933

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

SEP 16 2003

ROBERT C. HEINEMANN

CLERK

DATE

(BY) DEPUTY CLERK

COPY

**DECLARATION FOR PATENT APPLICATION
CO-PENDING APPLICATION CONTAINING
ADDITIONAL SUBJECT MATTER**

As a below named inventors, I hereby declare that my residences, post office addresses and citizenship are as stated below next to my names; I believe that I am the original, first inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled **COMBINATION PLASTIC SPIRAL FORMING MACHINE AND SEMI-AUTOMATIC PLASTIC SPIRAL BINDING MACHINE**

the specification of which is attached hereto.

This application in part discloses and claims subject matter disclosed in my earlier filed pending patent applications, Serial No. 08/843754, filed on April 21, 1997 (now U.S. Patent no. 5,890,862 of April 6, 1999), Serial No. 09/100,724, filed June 19, 1998 (now U.S. Patent no. 6,000,896) and Serial No. 09/460,887, filed December 14, 1999, now pending.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment(s) referred to above. I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, Sec. 1.56(a). I hereby claim foreign priority benefits under Title 35, United States Code, Sec. 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)			Priority Claimed
(Number)	(Country)	(Day/Month/Year Filed)	(Yes) (No)

None

I hereby claim the benefit under Title 35, United States Code, Sec. 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code Sec. 112. I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Sec. 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

(Application Serial No.)	(Filing Date)	(Status-Patented, Pend, Aban)
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08/843,754
09/100,724
09/460,887

April 21, 1997
June 19, 1998
December 14, 1999

Patented (USP 5,890,862)
Patented (USP 6,000,896)
Pending.

BEST AVAILABLE COPY

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

POWER OF ATTORNEY: I hereby appoint as my attorney, with full powers of substitution and revocation, to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

ALFRED M. WALKER Reg. No. 29,983

Send correspondence to:

ALFRED M. WALKER
PATENT ATTORNEY
225 Old Country Road
Melville, NY 11747-2712
(631) 361-8737

FULL NAME OF INVENTOR:

Norton Spiel

Citizenship:

US

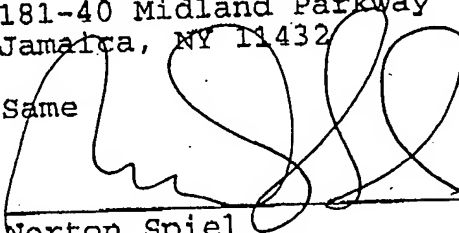
Residence Address:

181-40 Midland Parkway
Jamaica, NY 11432

Post Office Address:

Same

DATE: September 25, 2000


Norton Spiel

DECLAR-CIP-SOLE

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IN THE UNITED STATES PATENT OFFICE

APPLICANT: Norton Spiel
SERIAL NO. 10/215,656
FILED: August 10, 2002
FOR: COMBINATION PLASTIC SPIRAL FORMING
MACHINE AND SEMI-AUTOMATIC PLASTIC
SPIRAL BINDING MACHINE
EXAMINER: M. Henderson
GROUP ART UNIT:3722

DECLARATION

Saul Spiel, hereby declares:

I am an officer of assignee Spiel Associates, Inc., the owner of the above-identified patent application.

I make this Declaration to clarify the enclosed publication of PVC Corporation, which is not believed to be a prior art reference for the following reasons:

Applicant submits the attached publication of PVC Corporation for a Marlon 700 Machine. However, the Marlon 700 machine is not a prior art reference for the following reasons.

This application filed under application serial number 10/215,656 on August 10, 2002 is a continuation of application serial number 09/677,489, filed October 2, 2000, (now US Patent Number 6,547,502) which application was a continuation-in-part of application serial number 09/460,887 of December 14, 1999 (now US Patent No. 6,312,204), which is a continuation-in-part of application serial number 09/100,724, filed June 19, 1998 (now US Patent

Number 6,000,896), which is a continuation-in-part of application serial number 08/843,754, filed April 21, 1997 (now US Patent Number 5,890,862).

For the purposes of time priority with respect to the Claims herein, the subject matter of an in-line system having both a coil forming and coil insertion machine, was first introduced in the application filed under serial number 09/677,489 of October 2, 2000.

However, the aforementioned PVC Corporation publication is not a reference for the following reasons. In the late 1990s after developing and improving features of their plastic coil binder, the assignee of the above-entitled patent application, namely Spiel Associates Inc., confidentially contacted PVC Spiral Supply of Boise Idaho. Spiel asked PVC in confidence to develop a smaller, cheaper version of their Marlon 2001 to be hooked up inline to Spiel's coil binder sold under the tradename Coilmaster.

Less than one year before Applicant filed the parent application under serial number 09/677,489 on October 2, 2000, during the Chicago trade show, Graph Expo, October 17-20th 1999, Spiel Associates, Inc. displayed the first in-line plastic coil system. There was no exit conveyor on the forming machine. Due to time constraints a chute made from paper and cardboard was quickly designed and mounted with tape onto the end of the forming machine. The coils were funneled onto the in-feed conveyor of the binder. It was at

that show Spiel realized that the warm coil was not cutting well nor holding the crimp at each end of the coil.

Fortunately, show demonstrations are not long or demanding. There was always ample time to cool some coil prior to binding books at the show. PVC also displayed, for the first time, at that show, a Marlon 700, which was offline and *had no conveyor*. The complete inline system of the Marlon 700, conveyor, and Coilmaster were first displayed at the Graphics of the Americas show in Miami in January 2000. PVC sold their first Marlon 700 in February 2000. Spiel Associates filed for a patent October 2nd 2000.

The PVC Spiral Supply machine was not commercially available prior to its purchase by Applicant.. There were, machines made by PVC that were available to the public prior to the Graph Expo '99 but-- not the Marlon 700, nor any *forming machine with an exiting conveyor, nor any inline system whatsoever*. The fact that PVC has promoted and continues to promote the machine on its website, a machine it manufactures and sells exclusively through Spiel, is not unreasonable

When PVC promotes the Marlon 700 along with the conveyor on their website, they are referring to the subject matter of the present application filed under serial 10/215,656 of August 10, 2002.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further

that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: May 14, 2003


Saul Spiel